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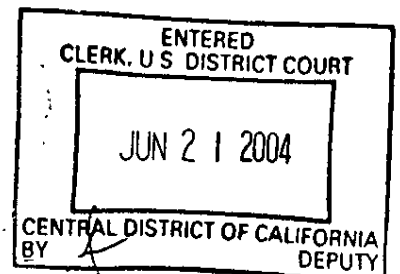
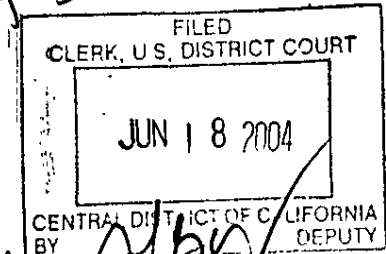
15 UNITED STATES DISTRICT COURT
16 CENTRAL DISTRICT OF CALIFORNIA
17 LOS ANGELES DIVISION

18 UNITED STATES OF AMERICA, and)
STATE OF CALIFORNIA, on behalf)
19 of the Department of Toxic)
Substances Control and the)
20 California Regional Water)
Quality Control Board, Los)
21 Angeles Region, and SOUTH)
COAST AIR QUALITY MANAGEMENT)
22 DISTRICT,)

23 Plaintiffs,)

24 v.)

25 KEYSOR-CENTURY CORPORATION,)
26 Defendant.)
27
28



F CV04-2823

CAS (RCx)

Civ. No.

CONSENT DECREE

THIS CONSTITUTES NOTICE OF ENTRY
AS REQUIRED BY FRCP, RULE 77(d).

8

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WHEREAS, Plaintiff, the United States of America ("United States"), by authority of the Attorney General of the United States, acting at the request of the Administrator of the Environmental Protection Agency ("U.S. EPA"), has filed a Complaint in this action alleging violations by Settling Defendant, Keysor-Century Corporation, of Sections 112(d), 112(r), 113(a), and 114(a) of the Clean Air Act ("CAA"), 42 U.S.C. § 7412(d), § 7412(r), § 7413(a), and § 7414(a); Sections 3002, 3004, and 3005 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6922, § 6924, and § 6925; Section 313(a) of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11023(a); Sections 301(a) and 402 of the Clean Water Act ("CWA"), as amended, 33 U.S.C. § 1311(a) and § 1342, and their federal and State authorized or approved implementing regulations, that occurred and continue to occur at Settling Defendant's closed polyvinyl chloride ("PVC") manufacturing and ongoing resin compounding plant, located at 26000 Springbrook Avenue, Saugus, California (the "Facility");

WHEREAS, Co-Plaintiff, the State of California ("State"), by authority of the Attorney General of the State of California, acting at the request of the State of California Department of Toxic Substances Control ("DTSC") and the State of California Regional Water Quality Control Board, Los Angeles Region ("Regional Board"), has alleged in the Complaint that Settling Defendant violated Sections 25189 and 25201 of the California Health and Safety Code; the implementing regulations in Title 22 of the California Code of Regulations; Sections 13261, 13267,

1 13383 and 13385 of the California Water Code; and Regional Board
2 Order 98-032;

3 WHEREAS, Co-Plaintiff, South Coast Air Quality Management
4 District ("District"), by the authority of the District
5 Prosecutors Office, has alleged in the Complaint that Settling
6 Defendant has violated District rules 1163 and 1173 such as to be
7 in violation of California Health and Safety Code 42402, 42402.1,
8 42402.2 and 42402.3;

9 WHEREAS, the Parties recognize, and the Court by entering
10 this Consent Decree finds, that this Consent Decree has been
11 negotiated by the Parties in good faith and will avoid litigation
12 between the Parties, and that this Consent Decree is fair,
13 reasonable, and in the public interest;

14 WHEREAS, settlement and entry of this Consent Decree does
15 not constitute admission or acknowledgment of liability by
16 Settling Defendant, nor does it constitute adjudication by the
17 Court of any issue or fact or law except as provided in
18 **Paragraphs 17 and 18** herein, but is intended solely to settle all
19 claims asserted between the United States, the State, and the
20 District (collectively the "Plaintiffs") and Settling Defendant
21 on the terms set forth herein;

22 WHEREAS, Settling Defendant is a debtor-in-possession under
23 Chapter 11 of the United States Bankruptcy Code, having filed a
24 voluntary petition for relief in the United States Bankruptcy
25 Court for the Central District of California ("Bankruptcy Court")
26 on March 19, 2002, Case No. SV 02-12477-AG;

27 NOW THEREFORE, upon consent and agreement of the Plaintiffs
28 and Settling Defendant, and the Court having considered the

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1 matter and being duly advised,

2 IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

3 I. JURISDICTION AND VENUE

4 1. This Court has jurisdiction over the subject matter of
5 this action pursuant to 28 U.S.C. § 1331, § 1345, and § 1355; CAA
6 Section 113(b), 42 U.S.C. § 7413(b); RCRA Section 3008(a), 42
7 U.S.C. § 6928(a); EPCRA Section 325(c)(4), 42 U.S.C.
8 § 11045(c)(4); and CWA Section 309(b), 33 U.S.C. § 1319(b). This
9 Court has supplemental jurisdiction under 28 U.S.C. § 1367 over
10 the claims asserted pursuant to Sections 25189 and 25201 of the
11 California Health and Safety Code; the implementing regulations
12 in Title 22 of the California Code of Regulations; Sections
13 13261, 13267, 13383 and 13385 of the California Water Code; and
14 Regional Board Order 98-032.

15 2. Venue is proper in this District pursuant to 28 U.S.C.
16 § 1391(b), § 1391(c), and § 1395(a); CAA Section 113(b), 42
17 U.S.C. § 7413(b); RCRA Section 3008(a), 42 U.S.C. § 6928(a);
18 EPCRA Section 325(c)(4), 42 U.S.C. § 11045(c)(4); and CWA Section
19 309(b), 33 U.S.C. § 1319(b), because the violations alleged in
20 the Complaint are alleged to have occurred in, and Settling
21 Defendant conducts business in, this judicial district.

22 3. For purposes of this Consent Decree, or any action to
23 enforce this Consent Decree, Settling Defendant consents to and
24 shall not challenge the Court's jurisdiction over this Consent
25 Decree, over any of the Parties or over such action, and consents
26 to and shall not challenge the venue in this judicial district.

27 4. For purposes of this Consent Decree, Settling Defendant
28 agrees that the Complaint states claims upon which relief may be

1 granted pursuant to CAA Sections 112(d), 112(r), 113(a), and
2 114(a), 42 U.S.C. § 7412(d), § 7412(r), § 7413(a), and § 7414(a);
3 RCRA Sections 3002, 3004, and 3005, 42 U.S.C. § 6922, § 6924, and
4 § 6925; EPCRA Section 313(a), 42 U.S.C. § 11023(a); and CWA
5 Sections 301(a) and 402, 33 U.S.C. § 1311(a) and § 1342; the
6 federal and State authorized or approved implementing regulations
7 of CAA, RCRA, EPCRA, and CWA; Sections 25189 and 25201 of the
8 California Health and Safety Code; the implementing regulations
9 in Title 22 of the California Code of Regulations; Sections
10 13261, 13267, 13383 and 13385 of the California Water Code; and
11 Regional Board Order 98-032.

12 5. The United States has given notice of the filing of the
13 Complaint to the State of California and the District, as
14 required by CAA Section 113(b), 42 U.S.C. § 7413(b); RCRA Section
15 3008(a)(2), 42 U.S.C. § 6928(a)(2); and CWA Section 309(b), 33
16 U.S.C. § 1319(b).

17 II. APPLICABILITY

18 6. The obligations of this Consent Decree apply to and are
19 binding upon the United States, the State, and the District; and
20 upon Settling Defendant and its owners, directors, agents,
21 successors, and assigns.

22 7. Any transfer of ownership or operation of the Facility
23 to any other person must be conditioned upon the transferee's
24 agreement to undertake the obligations required by this Consent
25 Decree, as provided in a written agreement between Settling
26 Defendant and the proposed transferee, enforceable by the United
27 States, the State, and the District as third-party beneficiaries
28 of such agreement. At least thirty (30) days prior to such

1 transfer, Settling Defendant shall provide a copy of this Consent
2 Decree to the proposed transferee and shall simultaneously
3 provide written notice of the prospective transfer, together with
4 a copy of the proposed written agreement, in accordance with
5 **Section XIV** (Notices, Records and Submissions) of this Consent
6 Decree. Any attempt to transfer ownership or operation of the
7 Facility without complying with this Paragraph shall constitute a
8 violation of this Consent Decree. No transfer of ownership or
9 operation of the Facility, whether in compliance with this
10 Paragraph or otherwise, shall relieve Settling Defendant of its
11 obligation to ensure that the terms of this Consent Decree are
12 implemented.

13 8. Settling Defendant shall provide a copy of this Consent
14 Decree to all officers, directors, employees, and agents whose
15 duties might reasonably include compliance with any provision of
16 this Consent Decree, as well as to any contractor retained to
17 perform work required under this Consent Decree. Settling
18 Defendant shall condition any such contract upon performance of
19 the work in conformity with the terms of this Consent Decree.

20 9. In any action to enforce this Consent Decree, Settling
21 Defendant shall not raise as a defense the failure by any of its
22 officers, directors, employees, agents, or contractors to take
23 any actions necessary to comply with the provisions of this
24 Consent Decree.

25 III. DEFINITIONS

26 10. Except as otherwise set forth herein, terms used in
27 this Consent Decree that are defined in CAA, RCRA, EPCRA, CWA, or
28 their federal and State authorized or approved implementing

1 regulations, shall have the meaning contained therein.

2 References to statutes and regulations in this Consent Decree
3 shall also include any amendments thereto.

4 "Bankruptcy Case" shall mean the voluntary petition for
5 relief by Keysor-Century Corporation, which is being administered
6 in In re Keysor-Century Corporation, Case No. SV 02-12477-AG
7 (Bankr. C. D. Cal.).

8 "Bankruptcy Court" shall mean the United States Bankruptcy
9 Court for the Central District of California.

10 "CAA" shall mean the Clean Air Act, as amended, 42 U.S.C.
11 § 7401 et seq.

12 "CWA" shall mean the Federal Water Pollution Control Act, as
13 amended, 33 U.S.C. § 1251 et seq., also known as the Clean Water
14 Act.

15 "Complaint" shall mean the Complaint filed by the United
16 States, the State, and the District in this Action.

17 "Consent Decree" or "Decree" shall mean this Consent Decree
18 and all appendices attached hereto.

19 "Day" shall refer to calendar days. If the due date falls
20 on a weekend or a federal holiday, then the deadline is extended
21 to the following Monday or non-holiday day, whichever is first.

22 "District" shall mean the South Coast Air Quality Management
23 District.

24 "DOJ" shall mean the United States Department of Justice and
25 any successor departments or agencies of the United States.

26 "DTSC" shall mean the State of California Department of
27 Toxic Substances Control.

28 "Effective Date" shall mean the Effective Date of this

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1 Consent Decree as provided by **Section XV** (Effective Date) of this
2 Consent Decree.

3 "EMP" shall mean the Environmental Management Plan set forth
4 in **Paragraphs 23 and 24**.

5 "Environmental Requirements" shall mean all applicable
6 federal, State, and local environmental statutes and regulations,
7 including permits and enforceable agreements between Settling
8 Defendant and the respective environmental regulatory
9 agency(ies).

10 "EPA" shall mean the United States Environmental Protection
11 Agency and any successor department or agency of the United
12 States.

13 "EPCRA" shall mean the Emergency Planning and Community
14 Right-to-Know Act, 42 U.S.C. § 11001 et seq.

15 "Facility" shall mean the polyvinyl chloride ("PVC")
16 manufacturing and resin compounding plant and associated
17 operations located at 26000 Springbrook Avenue, Saugus,
18 California.

19 "Governments" shall be defined to include the United States
20 government and its department and agencies; the State of
21 California and its boards, departments and offices; and all local
22 City and County governments, boards, departments, and agencies.

23 "NPDES" shall mean the National Pollutant Discharge
24 Elimination System under CWA.

25 "Paragraph" shall mean a portion of this Consent Decree
26 identified by an arabic numeral or an upper case letter.

27 "Parties" shall mean the United States, the State, the
28 District, and Settling Defendant.

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1 "Plaintiffs" shall mean the United States, the State, and
2 the District.

3 "Regional Board" shall mean the State of California Regional
4 Water Quality Control Board, Los Angeles Region.

5 "RCRA" shall mean the Resource Conservation and Recovery
6 Act, 42 U.S.C. § 6901 et seq.

7 "Section" shall mean a portion of this Consent Decree
8 identified by a roman numeral.

9 "Settling Defendant" shall mean Keysor-Century Corporation.

10 "State" shall mean the State of California, acting on behalf
11 of the State of California Regional Water Quality Control Board,
12 Los Angeles Region, and the State of California Department of
13 Toxic Substances Control.

14 "TRI" shall mean the Toxic Release Inventory under EPCRA.

15 "United States" shall mean the United States of America,
16 acting on behalf of EPA.

17 IV. MONETARY PAYMENTS

18 11. Subject to the provisions of **Paragraph 12**, within
19 thirty (30) days of the entry of this Consent Decree, Settling
20 Defendant shall establish an interest-bearing escrow account,
21 meeting the requirements of this Paragraph, in a federally-
22 insured bank chartered in the State of California, and shall
23 deposit into the escrow account funds in the amount of Four
24 Hundred and Forty Thousand dollars (\$440,000), to be earmarked
25 for payment as Allowed Administrative Expense Claims, as
26 described in **Paragraph 12** below. The terms of the escrow
27 agreement and the escrow agent shall be subject to prior approval
28 by the United States, DTSC, the Regional Board, and the District.

1 The escrow agreement shall provide that the escrow agent submit
2 to the jurisdiction and venue of this Court. The Settling
3 Defendant shall pay all costs, fees, taxes, and charges of the
4 escrow account, and those amounts shall not be deducted from the
5 monies required to be paid to the United States, DTSC, the
6 Regional Board, and the District under this Consent Decree. The
7 Settling Defendant shall bear all risk of loss from the escrow
8 account.

9 12. Subject to final approval of the Bankruptcy Court,
10 Settling Defendant agrees to pay to the Plaintiffs a total of
11 \$307,000 as an allowed administrative expense claim for civil
12 penalties under this Consent Decree, including interest earned in
13 the escrow in proportion to each Plaintiff's share, from the
14 escrow account created under **Paragraph 11** above within five (5)
15 days of the Effective Date of the Plan in the Bankruptcy Case
16 (hereinafter referred to as the "Plan," this refers to either the
17 Plan of Reorganization or Plan of Liquidation, depending on which
18 is approved in the Bankruptcy Court). If the Effective Date of
19 the Plan in the Bankruptcy Case precedes the Effective Date of
20 this Consent Decree, then the Settling Defendant shall pay the
21 \$307,000 allowed administrative expense claim for civil penalties
22 within fifteen (15) days of the Effective Date of this Consent
23 Decree directly to the Plaintiffs in accordance with the
24 instructions specified by each respective Plaintiff in **Paragraphs**
25 **14 through 16** below. In that event, Settling Defendant need not
26 establish the escrow account set forth in **Paragraph 11**. The
27 allowed administrative expense claim is to be split in the
28 following manner: \$153,500 as a civil penalty to the United

1 States; \$61,400 as a civil penalty to the Regional Board, \$61,400
2 as restitution of civil investigative costs to DTSC, and \$30,700
3 as a civil penalty to the District. Settling Defendant has pled
4 guilty in a related case in the United States District Court for
5 Central California, to charges related to this case. Pursuant to
6 the plea agreement filed in that separate but related criminal
7 case, Settling Defendant has agreed, *inter alia*, to pay the
8 remainder of the \$440,000 allowed administrative expense claim,
9 which is \$133,000, for restitution purposes. The criminal
10 restitution allowed administrative expense claim is to be split
11 in the following manner: \$ 18,282.84 in restitution to the United
12 States; \$40,000 in restitution to the District; and \$74,717.16 in
13 restitution to DTSC. The United States', the State's, and the
14 District's allowed administrative expense claims as civil
15 penalties or investigative costs reimbursement under this Consent
16 Decree shall not be subordinated for any reason to other allowed
17 administrative expense claims in the Bankruptcy Case.

18 13. Settling Defendant also agrees to pay to the United
19 States a total of Eight-Hundred and Forty-Four Thousand,
20 Two-Hundred and Seventy-Five dollars (\$844,275) to resolve
21 violations identified in a proof of claim filed on July 10, 2002,
22 by the United States in Settling Defendant's Bankruptcy Case.
23 Under the terms of the separately filed plea agreement between
24 the United States and Settling Defendant described in **Paragraph**
25 **12**, Settling Defendant has agreed to pay a total of three million
26 dollars (\$3,000,000) to resolve criminal claims made by the
27 United States. For the purposes of the Bankruptcy Case, Settling
28 Defendant agrees to propose and use its best efforts to obtain a

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Bankruptcy Plan that classifies and allows payment under the Plan of the \$844,275 civil penalty as a pre-petition claim, with twenty percent (20%), i.e., one hundred sixty-eight thousand eight hundred and fifty-five (\$168,855), classified as an allowed general unsecured claim, which shall be paid at the same time and in the same manner as other allowed general unsecured claims and shall not be subordinated to such claims, and the remaining eighty percent (80%), i.e., six hundred seventy-five thousand four hundred twenty (\$675,420), classified as a subordinated allowed general unsecured claim. In addition, Settling Defendant agrees to propose and use its best efforts to obtain a Bankruptcy Plan that classifies and allows payment under the Plan of \$60,000 classified as a subordinated allowed general unsecured claim. Under the terms of the separately filed plea agreement between the United States and Settling Defendant described in **Paragraph 12**, Settling Defendant will propose and use its best efforts to obtain a Bankruptcy Plan that classifies and allows payment under the Plan of a criminal penalty of three million dollars (\$3,000,000), as a pre-petition claim, with twenty percent (20%), i.e., six hundred thousand (\$600,000), classified as an allowed general unsecured claim, which shall be paid at the same time and in the same manner as other allowed general unsecured claims and shall not be subordinated to such claims, and the remaining eighty percent (80%), i.e., two million four hundred thousand (\$2,400,000), classified as a subordinated allowed general unsecured claim.

14. Settling Defendant's payments of civil penalties under this Consent Decree (including the allowed administrative expense

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1 payment of \$153,500, the allowed general unsecured payment, and
2 the subordinated allowed general unsecured payment) to the United
3 States, as set forth in **Paragraphs 12 and 13**, shall be made by
4 Electronic Funds Transfer ("EFT" or wire transfer) to the United
5 States Department of Justice ("DOJ") lock box bank, referencing
6 DOJ No. 90-5-2-1-07856. Payment shall be made in accordance with
7 the instructions provided by the United States. EFTs must be
8 received at the DOJ lock box bank by 11:00 A.M. (eastern time) in
9 order to be credited on that day. Settling Defendant shall
10 advise the Financial Litigation Unit of the United States
11 Attorneys Office for the Central District of California at the
12 time payment is being wire-transferred. A copy of the
13 transmittal notice shall be mailed to each party identified in
14 **Section XIV** (Notices, Records, and Submissions) of this Consent
15 Decree.

16 15. Settling Defendant's payment of the Allowed
17 Administrative Expense Claim for civil penalties under this
18 Consent Decree to the Regional Board of \$61,400, as set forth in
19 paragraph 12, should be made by certified check, payable to State
20 Water Resources Control Board Cleanup and Abatement Account, and
21 sent to:

22 California Regional Water Quality Control Board
23 Los Angeles Region
24 320 West 4th Street
25 Los Angeles, CA 90013.

26 Settling Defendant's payment of the Allowed Administrative
27 Expense Claim for restitution of civil investigative costs under
28 this Consent Decree to DTSC of \$61,400, and for restitution of
criminal investigative costs under this Consent Decree to DTSC of

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\$74,717.16, as set forth in paragraph 12, should be made by certified check to:

Department of Toxic Substances Control
Accounting Office
1001 I Street
P. O. Box 806
Sacramento, CA 95812-0806.

16. Settling Defendant's payment of the Allowed Administrative Expense Claim for civil penalties under this Consent Decree to the District of \$30,700, and for restitution of criminal investigative costs under this Consent Decree to the District of \$40,000, as set forth in paragraph 12, should be made by certified check to:

SCAQMD
Attn: Joseph Panisiti
21865 Copley Drive
Diamond Bar, CA 91765-0940.

17. If the Settling Defendant does not pay the **civil penalties**, as specified in **Paragraphs 12 and 13** of this Consent Decree, when due pursuant to the terms of the Plan, then without further order of this Court, this Consent Decree shall be considered an enforceable judgment in favor of the United States, DTSC, the Regional Board, and the District, as appropriate, for purposes of post-judgment collection under Rule 69 of the Federal Rules of Civil Procedure and other applicable statutory authority.

18. This Consent Decree may be used in any future permit proceeding or enforcement action commenced against the Settling Defendant by any Government as evidence of a past adjudication of violations of federal, State, and/or local laws.

19. Settling Defendant shall not deduct the payments made

1 under this Section in calculating its federal or State income
2 taxes.

3 V. ACTIONS TO BE PERFORMED BY SETTling DEFENDANT

4 20. CWA Compliance. Settling Defendant does not have NPDES
5 permit coverage for any discharges from its Facility to any water
6 of the United States, as its earlier NPDES permit expired and
7 ceases to be in effect. Therefore, Settling Defendant:

8 A. shall immediately cease, and hereby certifies
9 that it has ceased, all discharges of pollutants from the
10 Facility; and

11 B. shall, within sixty (60) days of the Effective
12 Date of this Consent Decree, fully comply with 40 C.F.R. §
13 122.26(g) and submit to EPA and the Regional Board a "no
14 exposure" certification as required under 40 C.F.R. §
15 122.26(g) (4).

16 21. Prevention of Accidental Release Program Compliance.
17 Within forty-five (45) days of the Effective Date of this Consent
18 Decree, Settling Defendant shall submit to the Plaintiffs a
19 revised registration pursuant to 40 C.F.R. § 68.190.

20 22. Resin Process Shutdown Report. Within one-hundred
21 twenty (120) days of the Effective Date of the Consent Decree,
22 Settling Defendant shall submit a report fully describing how its
23 resin manufacturing plant was shut-down and how all resin plant
24 equipment was decommissioned and/or purged. The report shall
25 also indicate how all wastes, unused raw chemicals, and product
26 were handled and/or disposed of, along with copies of all
27 relevant manifests, receipts, and/or reports documenting or
28 verifying handling and/or disposal of all wastes, unused raw

1 chemicals, and final product.

2 23. Third-Party Initial Audit. Within ninety (90) days of
3 the Effective Date of this Consent Decree, Settling Defendant
4 shall have performed by a third-party Initial Auditor (1) an
5 Initial Audit of its Facility to review and analyze Settling
6 Defendant's management of its waste and waste streams and (2) to
7 draft an Environmental Management Plan ("EMP") that describes
8 methods and procedures to ensure ongoing and future compliance by
9 the Facility with applicable RCRA, EPCRA, CWA and CAA
10 requirements. The following are the specific requirements of
11 this Paragraph:

12 A. Identification of Initial Auditor. Within forty-
13 five (45) days of the Effective Date of the Consent Decree,
14 Settling Defendant shall provide in writing: (a) the name,
15 affiliation and address of the Initial Auditor selected by the
16 Settling Defendant to conduct the audit outlined by this
17 Paragraph; (b) evidence that the Initial Auditor is a registered
18 professional engineer, satisfies the qualification requirements
19 of ISO 14012 (First edition, 1996-10-01), and has a working
20 knowledge of the Facility and applicable federal and State
21 Environmental Requirements; and (c) the schedule, including
22 milestones, for conducting the Initial Audit.

23 B. Settling Defendant shall have its Initial Auditor,
24 through the Initial Audit, address the following areas:

25 i. Waste Management. Current compliance with
26 RCRA, 40 C.F.R. Part 68 and CAA Section 112(r) (prevention of
27 accidental release program), best management practices and good
28 housekeeping standards for all wastes and/or waste streams. The

1 Audit shall include the following specific items:

2 a. Settling Defendant shall have its
3 Initial Auditor identify and make hazardous waste determinations
4 for all wastes and/or waste streams stored at the Facility or
5 generated by the Facility during the past three years in
6 accordance with California Code of Regulations ("C.C.R."), Title
7 22, Section 66262.11, and 40 C.F.R. § 262.11 and indicate whether
8 each waste and/or waste stream is a RCRA hazardous waste, a
9 non-RCRA California-only hazardous waste, or a non-hazardous
10 waste. Settling Defendant shall have its Initial Auditor provide
11 a narrative explanation of how the determination was made,
12 including all necessary supporting information and documentation
13 used to make the determination(s). Supporting information and
14 documentation may include, but is not limited to, laboratory
15 analyses and process information. Settling Defendant shall have
16 its Initial Auditor also provide all relevant manifests or
17 documents indicating off-site removal of wastes and/or waste
18 streams for the past three years. This provision covers all
19 wastes and/or waste streams, not just RCRA hazardous wastes
20 and/or waste streams.

21 b. Settling Defendant shall have its
22 Initial Auditor identify and make hazardous waste determinations
23 for all current wastes and/or waste streams stored at the
24 Facility or being generated by current operations at the Facility
25 in accordance with 22 C.C.R. § 66262.11, and 40 C.F.R. § 262.11
26 and indicate whether each waste and/or waste stream is a RCRA
27 hazardous waste, a non-RCRA California-only hazardous waste, or a
28 non-hazardous waste. Settling Defendant shall have its Initial

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1 Auditor provide a narrative explanation of how the determination
2 was made, including all necessary supporting information and
3 documentation used to make the determination(s). Supporting
4 information and documentation may include, but is not limited to,
5 laboratory analyses and process information. This provision
6 covers all wastes and/or waste streams, not just RCRA hazardous
7 wastes and/or waste streams;

8 ii. Environmental Management Plan. Settling
9 Defendant shall have its Initial Auditor draft an EMP for the
10 Facility. The EMP shall be a plan that describes methods and
11 procedures to ensure ongoing and future compliance by the
12 Facility with applicable RCRA, EPCRA, CWA and CAA requirements.
13 The EMP shall:

14 a. Personnel. describe how the Settling
15 Defendant will implement and maintain the EMP, including an
16 identification of the individual employees and/or contractors who
17 will implement it and their duties and appropriate accountability
18 measures to review and ensure that Settling Defendant's employees
19 and its applicable contractors are complying with the EMP.

20 b. Environmental Requirements. identify all
21 RCRA, CWA, EPCRA and CAA requirements that apply to the Facility
22 and describe how these requirements will be communicated to the
23 appropriate employees and contractors and how these personnel
24 will communicate with regulatory agencies. The EMP shall also
25 specify procedures for prospectively identifying and obtaining
26 information about changes and proposed changes in environmental
27 requirements, and incorporating those changes into the EMP.

28 c. Assessment, Prevention, and Control.

1 identify an ongoing process for assessing operations for the
2 purposes of preventing and controlling releases, ensuring
3 environmental protection, and maintaining compliance with
4 statutory and regulatory requirements, including an
5 identification of operations and waste streams where equipment
6 malfunctions and deterioration, operator errors, and discharges
7 or emissions may be causing, or may lead to: (1) releases of
8 hazardous waste or other pollutants to the environment, (2) a
9 threat to human health or the environment, or (3) violations of
10 environmental requirements. The EMP should also require routine
11 self-inspections by appropriate trained employees and/or
12 contractors to check for environmental compliance, malfunctions,
13 worker adherence to the EMP, and unauthorized releases.
14 Additionally, for each waste and/or waste stream identified in
15 **Paragraph 23.B.i.b**, above, the EMP shall describe how the
16 Facility will prospectively store, handle, dispose of, remove
17 and/or treat it in a manner consistent with applicable regulatory
18 requirements, good housekeeping standards, and best management
19 practices.

20 d. *Environmental Incident and Noncompliance*
21 *Investigations*. describe standard procedures and requirements for
22 internal and external reporting of potential violations and
23 release incidents and for a system ensuring prompt and
24 appropriate correction of potential violations.

25 e. *Environmental Training, Awareness, and*
26 *Competence*. identify specific environmental education and
27 training required for employees, as well as processes for
28 documenting the training provided.

f. *Maintenance of Records and*

Documentation. identify records that will be developed in support of the EMP (including audits and reviews), who will maintain them and where, how they will be accessible to employees and/or contractors who need to review them, and protocols for responding to inquiries and requests for release of information.

g. *Pollution Prevention Program.* describe

an internal program for preventing, reducing, recycling, reusing, and minimizing waste and emissions, including procedures to encourage material substitutions.

C. Initial Audit Completion Report. Within one-

hundred twenty (120) days of the Effective Date of this Consent Decree. Settling Defendant shall submit to the Plaintiffs a report of the results of the Initial Audit and a copy of the Facility's EMP.

24. Environmental Management Plan. Settling Defendant

shall implement and comply with the EMP drafted pursuant to **Paragraph 23.B.ii** at all times. Additionally, Settling Defendant shall comply with the following requirements:

A. Status Reports. Settling Defendant shall submit

its initial status report between one-hundred fifty (150) and one-hundred eighty (180) days from the date of submission of the EMP pursuant to **Paragraph 23.C**, and annually thereafter on the anniversary date of the submission of the initial status report. For each reporting period, Settling Defendant shall describe in the status report how the EMP plan was implemented, describe any deviations from the EMP plan, describe any changes to the EMP, and describe any corrective measures taken by Settling Defendant

1 to correct any potential violations or release incidents
2 discovered through implementation of the EMP.

3 B. Third Party Follow-up Audit:

4 i. Audit Plan. Between twenty-two (22) and
5 twenty-four (24) months of the date of entry of this Consent
6 Decree, Settling Defendant shall submit to Plaintiffs an Audit
7 Plan at least sixty (60) days prior to commencing the Follow-up
8 Audit described in **Paragraph 24.B.ii** to EPA for review and
9 approval, consistent with the procedures set forth in **Section VI**.
10 The Audit Plan shall include, at a minimum, the following:

11 a. An identification of the third party
12 auditor (along with the additional information described in
13 **Paragraph 23.A**);

14 b. An outline of the methodology of the
15 audit;

16 c. A description of the manner of
17 investigation;

18 d. An identification of the scope of the
19 review;

20 e. A discussion of the specific actions to
21 be taken; and

22 f. A plan of action for any areas of
23 concern discovered through the audit.

24 If EPA fails to comment on the Audit Plan pursuant to **Section**
25 **VI** by the time that Respondent has planned to commence the Audit,
26 the Audit Plan is deemed approved by the EPA. If EPA identifies
27 deficiencies pursuant to **Section VI** of this Consent Decree, the
28 commencement date of the Audit as specified in **Paragraph 24.B.ii**

1 will be tolled until such time that there is a fully approved
2 Audit Plan.

3 ii. *Follow-up Audit.* Between twenty-four (24)
4 and twenty-six (26) months of the date of entry of this Consent
5 Decree, and at least sixty (60) days after the submission of the
6 Audit Plan pursuant to Paragraph 24.B.i, Settling Defendant shall
7 require the Follow-up Auditor to conduct the Audit described in
8 the approved Audit Plan of the Facility to evaluate the Facility's
9 implementation of the elements of the EMP, from top management
10 down, and to identify where further improvements should be made to
11 the EMP.

12 iii. *Audit Report.* Within sixty (60) days
13 following the completion of the on-site portion of the Follow-up
14 Audit, Settling Defendant shall submit to the Plaintiffs a Follow-
15 up Audit report that shall, at a minimum, contains the following
16 information:

- 17 a. Audit scope and date(s) of audit,
18 b. Identification of audit team members,
19 including employees of Settling Defendant involved in the audit,
20 c. A summary of the audit process,
21 including any obstacles encountered;
22 d. Detailed audit findings, including the
23 basis for each finding and each area of concern identified;
24 e. Description of any corrective measures
25 that have resulted or will result from the audit findings; and,
26 f. Certification by the Follow-up Auditor
27 that the Follow-up Audit was conducted in accordance with the
28 provisions of this Consent Decree.

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1 25. Interim Housekeeping. Within thirty (30) days of the
2 Effective Date of the Consent Decree, Settling Defendant shall
3 perform the following interim housekeeping measures and shall
4 submit a Notice of Completion to the Plaintiffs identifying and
5 describing the measures performed, the person(s) responsible for
6 the measures, and the completion date:

7 A. Clean up loose resin deposits, debris, and dust at
8 the Facility, including near the rail cars, in the compounding
9 area, and in the resin processing area, in compliance with
10 applicable federal, State and local laws, regulations, protocols
11 and best management practices.

12 B. Clean up piles of pellets and other debris on the
13 Facility grounds in compliance with applicable federal, State and
14 local laws, regulations and protocols.

15 C. Contain and cover oily debris and maintenance
16 materials.

17 26. Toxic Release Inventory (TRI) Reporting. Within ninety
18 (90) days of the Effective Date of this Consent Decree, Settling
19 Defendant shall conduct an internal review to identify all
20 information/data available to Settling Defendant and its
21 shareholders, directors and employees pertaining to releases to
22 the environment including air emissions, surface water
23 discharges, releases to land, and underground injection when
24 applicable regarding all TRI chemicals for the reporting years
25 1997-2002, including but not limited to: mass balance
26 calculations (such as those recently performed by Settling
27 Defendant for 2000-2002), one time release reports, internal
28 records and monitoring data, employee knowledge of releases, and

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1 monitoring or release data identified by regulatory agencies.

2 Settling Defendant shall undertake the following activities with
3 respect to compliance with EPCRA 313 TRI reporting requirements:

4 A. Within one-hundred eighty (180) days of the
5 Effective Date of this Consent Decree, Settling Defendant shall
6 provide a written report to EPA explaining how it conducted its
7 review under this Section, how it derived its measurements and
8 calculations, and discussing the results of its review.

9 B. Within one-hundred eighty (180) days of the
10 Effective Date of this Consent Decree, Settling Defendant shall
11 redraft and resubmit Form R for years 2001 and 2000 incorporating
12 all TRI chemical release data identified in Settling Defendant's
13 internal review and through the Initial Audit required by
14 **Paragraph 23**, and using reliable methodology to reasonably
15 estimate fugitive emissions.

16 C. Within one-hundred eighty (180) days of the
17 Effective Date of this Consent Decree, Settling Defendant shall
18 recalculate TRI chemical releases for years 1997 through 1999
19 incorporating all release data identified in Settling Defendant's
20 internal review and through the Initial Audit required by
21 **Paragraph 23**, and using reliable methodology to reasonably
22 estimate fugitive emissions. To the extent that Settling
23 Defendant finds any discrepancies between any of the recalculated
24 releases and any of the releases identified in any of the Form R
25 for the years 1997 through 1999, then Settling Defendant shall
26 redraft and resubmit those Form R within one-hundred eighty (180)
27 days of the Effective Date of this Consent Decree.

28 27. Certification of Shutdown. Settling Defendant

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certifies that by December 31, 2002, it permanently ceased receiving at its Facility any raw materials and organic intermediates that could be used for the manufacture of polyvinyl chloride and had permanently shut down its polyvinyl chloride resin manufacturing process at its Facility. Settling Defendant further certifies this closure and shut-down of the resin plant at its Facility means that no equipment at the Facility is currently in vinyl chloride service as defined in 40 C.F.R. Subpart F.

28. Prohibition Against Future Operations. Settling Defendant shall not resume the manufacture of polyvinyl chloride resin at its Facility at any time in the future.

29. Binding Effect of Shutdown. While Settling Defendant's initial decision to shut down its polyvinyl chloride resin manufacturing process at its Facility was a business decision not mandated by this Consent Decree or required by any of the Plaintiffs, the further commitments made in **Paragraphs 27-28** of this Consent Decree, above, are binding and enforceable and are required for the purposes of resolving the violations set forth in the Complaint.

30. General Compliance Certification. Settling Defendant certifies, to its knowledge, that it is currently in compliance with all requirements of the CAA, RCRA, EPCRA, CWA, and their federal and State authorized or approved implementing regulations.

31. Emission Reductions from Shutdown. EPA and the District consider any emission reduction resulting from the shutdown of Settling Defendant's polyvinyl chloride manufacturing

resin plant as not being surplus for federal or State emission trading purposes, and shall not be used as an offset for any federal or State permitting actions, banked as an emission reduction credit, used in an New Source Review offset equivalency demonstration, or used in any federal or State trading program.

32. Application for Emission Reduction Credits. Settling Defendant shall take no further action seeking acceptance of its application filed with the District for emission reduction credits for emission reductions resulting from the shutdown of its polyvinyl chloride manufacturing resin plant.

33. Environmental Permits. Within forty-five (45) days of the Effective Date of this Consent Decree, Settling Defendant must (1) submit applications to the appropriate agencies to revoke or withdraw all currently valid environmental permits, including but not limited to Regional Board NPDES permits, Los Angeles County Sanitation District pretreatment permits, District permits to operation and/or authorities to construct, DTSC RCRA permits, and Los Angeles County Tier I waste treatment permits; (2) submit amendment and/or modification applications to the appropriate agencies for each of these permits to incorporate changes reflecting the permanent shutdown and decommissioning of the polyvinyl chloride resin manufacturing plant; or (3) for those permits already modified to reflect the permit shutdown of the resin plant, submit evidence and certifications documenting the modification.

34. Community Meeting. Settling Defendant shall conduct a meeting with members of the community concerning this Consent Decree and environmental compliance at the Facility or at an

1 appropriate alternative location to explain the actions it will
2 take pursuant to this Consent Decree. The meeting shall be
3 organized in coordination with Physicians for Social
4 Responsibility or a comparable group, and in consultation with
5 the Plaintiffs. This meeting shall be scheduled for a date no
6 later than three (3) months from the Effective Date of this
7 Consent Decree, at a time and upon conditions agreed to by
8 Settling Defendant and the Plaintiffs. Settling Defendant shall
9 provide public notice of this meeting in a newspaper of general
10 circulation in Santa Clarita and Saugus and notice to all of the
11 entities with which it has coordinated and consulted under this
12 Paragraph, at least fourteen (14) days prior to its occurrence.
13 Settling Defendant recognizes that representatives of the
14 Plaintiffs may attend that meeting.

15 VI. REVIEW OF SUBMISSIONS

16 35. After review of any plan, report or other item which is
17 required to be submitted for approval pursuant to this Consent
18 Decree, EPA, in consultation with the other Plaintiffs, shall:
19 (a) approve, in whole or in part, the submission; (b) approve the
20 submission upon specified conditions; (c) disapprove, in whole or
21 in part, the submission; or (d) any combination of the above.

22 36. In the event of approval or approval upon conditions,
23 pursuant to **Paragraph 35(a) or (b)**, Settling Defendant shall
24 proceed to take any action required by the plan, report, or other
25 item, as approved by EPA, in consultation with the other
26 Plaintiffs, subject only to its right to invoke the Dispute
27 Resolution procedures set forth in **Section X** (Dispute Resolution)
28 with respect to any conditions made by the Plaintiffs. The

1 Plaintiffs shall retain their rights to seek Stipulated
2 Penalties, as provided in **Section VIII** (Stipulated Penalties).

3 37. Resubmission of Plans.

4 a. Upon receipt of a notice of disapproval pursuant
5 to **Paragraph 35(c)**, Settling Defendant shall, within ten (10)
6 days or such longer time as specified in such notice correct the
7 deficiencies and resubmit the plan, report, or other item for
8 review and approval. Any Stipulated Penalties applicable to the
9 submission, as provided in **Section VIII**, shall accrue during the
10 10-day or otherwise specified period but shall not be payable
11 unless the resubmission is disapproved as provided in **Paragraph**
12 **35(c)**.

13 b. Notwithstanding the receipt of a notice of
14 disapproval pursuant to **Paragraph 35(c)**, Settling Defendant shall
15 proceed, at the direction of EPA, in consultation with the other
16 Plaintiffs, to take any action required by any portion of the
17 submission which has not been disapproved. Such implementation
18 of any portion of a submission shall not relieve Settling
19 Defendant of any liability for Stipulated Penalties under **Section**
20 **VIII**.

21 c. In the event that a resubmitted plan, report or
22 other item, or portion thereof, is disapproved by EPA, in
23 consultation with the other Plaintiffs, EPA may again require the
24 Settling Defendant to correct the deficiencies, in accordance
25 with the preceding Paragraphs.

26 d. All plans, reports, and other items required to be
27 submitted to the Plaintiffs under this Consent Decree shall, upon
28 approval or approval with conditions by EPA, in consultation with

the other Plaintiffs, be incorporated by reference into and be enforceable under this Consent Decree. In the event that EPA, in consultation with the other Plaintiffs, approves a portion of a plan, report, or other item required to be submitted to them under this Consent Decree, the approved portion shall be incorporated by reference into and be enforceable under this Consent Decree.

VII. REPORTING REQUIREMENTS

38. Notwithstanding the Reports mandated by other Sections in this Consent Decree, if Settling Defendant violates any requirement of this Consent Decree, Settling Defendant shall notify the Plaintiffs of such violation and its likely duration in writing within ten (10) working days of the day Settling Defendant first becomes aware of the violation, with an explanation of the violation's likely cause and of the remedial steps taken, and/or to be taken, to prevent or minimize such violation. If the cause of a violation cannot be fully explained at the time the report is due, Settling Defendant shall include a statement to that effect in the report. Settling Defendant shall investigate to determine the cause of the violation and then shall submit an amendment to the report, including a full explanation of the cause of the violation, within thirty (30) days of the day Settling Defendant becomes aware of the cause of the violation. Nothing in this Paragraph or the following Paragraph relieves Settling Defendant of its obligation to provide the requisite notice for purposes of **Section IX** (Force Majeure).

39. In the case of any violation or other event that may

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pose an immediate threat to the public health, welfare, or the environment, Settling Defendant shall notify EPA and DTSC orally or by electronic or facsimile transmission as soon as possible, but not later than 24 hours after Settling Defendant first knew of, or should have known of, the violation or event. This procedure is in addition to the requirements set forth in the preceding Paragraph.

40. The reporting requirements of this Section must be performed consistent with the requirements of **Section XIV** (Notices, Records, and Submissions).

VIII. STIPULATED PENALTIES

41. If Settling Defendant fails to pay the Monetary Payments required to be paid under **Section IV** of this Consent Decree (Monetary Payments) to any of the Plaintiffs when due, Settling Defendant shall pay a stipulated penalty of \$300 to each Plaintiff not receiving its payment per day for each day that the payment is late. Late payment of the Monetary Payments along with any Stipulated Penalties required under this Paragraph shall be made in accordance with **Section IV** (Monetary Payments), **Paragraphs 14 through 16**, above, depending upon which Plaintiff will be receiving the payment(s). In addition to the language required by **Section IV** (Monetary Payments), all transmittal correspondence shall state that any such payment is for late payment of the Monetary Payments and/or Stipulated Penalties due under this Consent Decree.

42. Settling Defendant shall be liable for Stipulated Penalties to the Plaintiffs for violations of this Consent Decree as specified below, unless excused under **Section IX** (Force

Majeure). A violation includes failing to perform any obligation required by the terms of this Consent Decree, including any work plan or schedule approved under this Consent Decree, according to all applicable requirements of this Consent Decree and within the specified time schedules established by or approved under this Consent Decree.

43. The following Stipulated Penalties shall accrue per violation per day for each violation of a requirement of **Paragraphs 27** (permanent cessation of receiving materials for manufacturing PVC and shutdown of the PVC resin process at the Facility) and **28** (permanent cessation of the manufacture of PVC at the Facility) above:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$5,000/day	1st through 14th day
\$10,000/day	15th through 30th day
\$15,000/day	31st day and beyond

44. The following Stipulated Penalties shall accrue per violation per day for each violation of a requirement of **Paragraphs 20** (permanent cessation of discharges of pollutants without a permit), **31** (seeking emissions reductions credits), and **32** (revocation of Environmental Permits) above:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$2,500/day	1st through 14th day
\$5,000/day	15th through 30th day
\$10,000/day	31st day and beyond

45. Reporting Requirements. The following Stipulated Penalties shall accrue per violation per day for each violation of the reporting requirements of **Section VII** of this Consent

Decree:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$500/day	1st through 14th day
\$1,000/day	15th through 30th day
\$1,500/day	31st day and beyond

46. Compliance Milestones:

A. The following Stipulated Penalties shall accrue per violation per day for each violation of the requirements identified in Subparagraph 46.B:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$500/day	1st through 14th day
\$1,000/day	15th through 30th day
\$1,500/day	31st day and beyond

B. Compliance Milestones.

i. All submissions and implementations required by **Paragraph 20** (CWA Compliance);

ii. Submission of a revised registration as required by **Paragraph 21** (Chemical Action Prevention Provision Compliance);

iii. Submission of the Resin Process Shutdown Report as required by **Paragraph 22**;

iv. All actions, reports, and certifications required by **Paragraph 23** (Initial Audit);

v. All actions, implementations, reports, audits, submissions, and certifications required by **Paragraph 24** (Environmental Management Plan);

vi. All actions and submissions required by **Paragraph 25** (Interim Housekeeping);

vii. All actions, reports, submissions, and certifications required by **Paragraph 26** (Toxic Release Inventory Reporting);

viii. The community meeting as required by **Paragraph 34** (Community Meeting).

47. Stipulated Penalties under this Section shall begin to accrue on the day after performance is due or on the day a violation occurs, whichever is applicable, and shall continue to accrue until performance is satisfactorily completed or until the violation ceases. Stipulated Penalties shall accrue simultaneously for separate violations of this Consent Decree. Any Plaintiff may seek Stipulated Penalties under this Section. Where separate Plaintiffs seek Stipulated Penalties for the same violation of this Consent Decree, Settling Defendant shall pay an equal percentage of the Stipulated Penalties to each Plaintiff seeking the Stipulated Penalties. Any Plaintiff who does not join in the demand within fourteen (14) days of receiving notice of the demand, or timely joins in the demand but subsequently elects to waive or reduce Stipulated Penalties for that violation, shall not receive a portion of the Stipulated Penalties. The determination by one Plaintiff not to seek Stipulated Penalties shall not preclude the other Plaintiffs from seeking Stipulated Penalties.

48. Each Plaintiff seeking Stipulated Penalties, in its unreviewable discretion, may reduce the Stipulated Penalties otherwise due to that Plaintiff under this Consent Decree.

49. Stipulated Penalties shall continue to accrue as provided in **Paragraph 47**, above, during any Dispute Resolution,

pursuant to Section X (Dispute Resolution), with interest on accrued penalties payable and calculated at the rate established by the Secretary of the Treasury, pursuant to 28 U.S.C. § 1961, but need not be paid until the following:

a. If the dispute is resolved by agreement or by a decision of the Plaintiff(s) that is not appealed to the Court, Settling Defendant shall pay accrued Stipulated Penalties determined to be owing, together with interest, to the Plaintiff(s) seeking Stipulated Penalties pursuant to **Paragraph 47** within 30 days of the Effective Date of the agreement or the receipt of Plaintiffs' decision or order;

b. If the dispute is appealed to the Court and the Plaintiff(s) prevails in whole or in part, Settling Defendant shall pay all accrued Stipulated Penalties determined by the Court to be owing, together with interest, within 60 days of receiving the Court's decision or order, except as provided in Subparagraph c, below;

c. If any Party appeals the District Court's decision, Settling Defendant shall pay all accrued Stipulated Penalties determined to be owing, together with interest, within 15 days of receiving the final appellate court decision.

50. Settling Defendant shall, as directed by the Plaintiff(s), pay Stipulated Penalties in accordance with **Section IV (Monetary Payments), Paragraphs 14 through 16**, depending upon which Plaintiff is owed the Stipulated Penalties under this Section.

51. Settling Defendant shall not deduct Stipulated Penalties paid under this Section in calculating its federal or

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1 State income taxes.

2 52. If Settling Defendant fails to pay Stipulated Penalties
3 according to the terms of this Consent Decree, the Plaintiff(s)
4 shall be entitled to collect interest on such penalties, as
5 provided for in 28 U.S.C. § 1961.

6 53. The payment of Stipulated Penalties shall not alter in
7 any way the Settling Defendant's obligations under this Consent
8 Decree and nothing in this Consent Decree shall preclude the
9 Plaintiffs from seeking any additional legal or equitable relief,
10 including, but not limited to, injunctive relief, civil
11 penalties, and civil or criminal contempt sanctions, for any
12 violation of CAA, RCRA, EPCRA, CWA, or their federal and State
13 authorized or approved implementing regulations, other than those
14 violations which are the subject of this action.

15 54. These Stipulated Penalties shall not be the sole remedy
16 a Plaintiff may seek for non-compliance with this Consent Decree.
17 Such other remedies may include actions for contempt and/or to
18 enforce this Consent Decree. Failure by one of the Plaintiffs to
19 give notice of either the violation of this Consent Decree or the
20 assessment of Stipulated Penalties shall not act as a waiver of
21 Settling Defendant's obligation to pay said Stipulated Penalties.

22 IX. FORCE MAJEURE

23 55. A "force majeure event" is any event beyond the control
24 of Settling Defendant, its contractors, or any entity controlled
25 by Settling Defendant that delays the performance of any
26 obligation under this Consent Decree despite Settling Defendant's
27 best efforts to fulfill the obligation. "Best efforts" includes
28 anticipating any potential force majeure event and addressing the

1 effects of any such event (a) as it is occurring and (b) after it
2 has occurred, to prevent or minimize any resulting delay to the
3 greatest extent possible. "Force Majeure" does not include
4 Settling Defendant's financial inability to perform any
5 obligation under this Consent Decree.

6 56. Settling Defendant shall provide notice orally or by
7 electronic or facsimile transmission as soon as possible, but not
8 later than 72 hours after the time Settling Defendant first knew
9 of, or by the exercise of due diligence, should have known of, a
10 claimed force majeure event. Settling Defendant shall also
11 provide written notice, as provided in **Section XIV** (Notices,
12 Records, and Submissions) of this Consent Decree, within seven
13 (7) days of when Settling Defendant knew, or with the exercise of
14 reasonable care should have known, of the event. The notice
15 shall refer to this Section of the Consent Decree and describe in
16 detail the anticipated length of the delay, the precise cause or
17 causes of the delay, the measures taken and to be taken by the
18 Settling Defendant to prevent or minimize the delay, the
19 timetable pursuant to which those measures shall be implemented,
20 and whether the Settling Defendant believes that the event which
21 causes or may cause the delay constitutes a force majeure.
22 Failure to give such notice shall preclude Settling Defendant
23 from asserting any claim of force majeure.

24 57. If EPA, in consultation with the other Plaintiffs,
25 agrees that a force majeure event has occurred, the EPA, in
26 consultation with the other Plaintiffs, may agree to extend the
27 time for Settling Defendant to perform the affected requirements
28 for the time necessary to complete those obligations. An

1 extension of time to perform the obligations affected by a force
2 majeure event shall not, by itself, extend the time to perform
3 any other obligation. Where EPA, in consultation with the other
4 Plaintiffs, agrees to an extension of time, the appropriate
5 modification shall be made pursuant to **Section XVII**
6 (Modification) of this Consent Decree.

7 58. If EPA, in consultation with the other Plaintiffs, does
8 not agree that a force majeure event has occurred or does not
9 agree to the extension of time sought by Settling Defendant,
10 EPA's position shall be binding, unless Settling Defendant
11 invokes Dispute Resolution under **Section X** (Dispute Resolution)
12 of this Consent Decree. In any such dispute, Settling Defendant
13 bears the burden of proving, by a preponderance of the evidence,
14 that each claimed force majeure event is a force majeure event;
15 that Settling Defendant gave the notice required by **Paragraph 56**;
16 that the force majeure event caused any delay Settling Defendant
17 claims was attributable to that event; and that Settling
18 Defendant exercised best efforts to prevent or minimize any delay
19 caused by the event.

20 **X. DISPUTE RESOLUTION**

21 59. Unless otherwise expressly provided for in this Consent
22 Decree, the dispute resolution procedures of this Section shall
23 be the exclusive mechanism to resolve disputes arising under or
24 with respect to this Consent Decree. However, such procedures
25 shall not apply to actions by the Plaintiffs to enforce
26 obligations of the Settling Defendant that have not been disputed
27 in accordance with this Section.

28 60. Informal Dispute Resolution: Any dispute subject to

dispute resolution under this Consent Decree shall first be the subject of informal negotiations. The dispute shall be considered to have arisen when Settling Defendant sends the Plaintiffs a written Notice of Dispute. Such Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations shall not exceed 20 days from the date the dispute arises, unless that period is modified by written agreement. If the Parties cannot resolve a dispute by informal negotiations, then the position advanced by the Plaintiffs shall be considered binding unless, within 10 days after the conclusion of the informal negotiation period, Settling Defendant invokes formal dispute resolution procedures as set forth below.

61. Formal Dispute Resolution: Settling Defendant shall invoke formal dispute resolution procedures, within the time period provided in the preceding Paragraph, by serving on the Plaintiffs a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but may not be limited to, any factual data, analysis, or opinion supporting Settling Defendant's position and any supporting documentation relied upon by Settling Defendant.

62. The Plaintiffs shall serve its Statement of Position within 45 days of receipt of Settling Defendant's Statement of Position. The Plaintiffs' Statement of Position shall include, but may not be limited to, any factual data, analysis, or opinion supporting that position and all supporting document relied upon by the Plaintiffs. The Plaintiffs' Statement of Position shall be binding on Settling Defendant, unless Settling Defendant files a motion for judicial review of the dispute in accordance with

1 the following Paragraph.

2 63. Settling Defendant may seek judicial review of the
3 dispute by filing with the Court and serving on the Plaintiffs,
4 in accordance with **Section XIV** (Notices, Records, and
5 Submissions) of this Consent Decree, a motion requesting judicial
6 resolution of the dispute. The motion must be filed within 10
7 days of receipt of the Plaintiffs' Statement of Position pursuant
8 to the preceding Paragraph. The motion shall contain a written
9 statement of Settling Defendant's position on the matter in
10 dispute, including any supporting factual data, analysis,
11 opinion, or documentation, and shall set forth the relief
12 requested and any schedule within which the dispute must be
13 resolved for orderly implementation of the Consent Decree.

14 64. The Plaintiffs shall respond to Settling Defendant's
15 motion within the time period provided in the Local Rules of this
16 Court, unless the Parties stipulate otherwise. Settling
17 Defendant may file a reply memorandum, to the extent permitted by
18 the Local Rules or the Parties' stipulation, as applicable.

19 65. In any dispute under this Paragraph, Settling Defendant
20 shall bear the burden of demonstrating that its position clearly
21 complies with this Consent Decree and CAA, RCRA, EPRCA, CWA, and
22 their federal and State authorized or approved implementing
23 regulations, and that Settling Defendant is entitled to relief
24 under applicable law. Settling Defendant shall bear the burden
25 of demonstrating that the decision of the Plaintiffs is arbitrary
26 and capricious or otherwise not in accordance with law.

27 66. The invocation of dispute resolution procedures under
28 this Section shall not extend, postpone, or affect in any way any

obligation of Settling Defendant under this Consent Decree not directly in dispute. Stipulated Penalties with respect to the disputed matter shall continue to accrue from the first day of noncompliance, but payment shall be stayed pending resolution of the dispute as provided in **Paragraph 49**, above. If Settling Defendant does not prevail on the disputed issue, Stipulated Penalties shall be assessed and paid as provided in **Section VIII** (Stipulated Penalties).

XI. INFORMATION COLLECTION AND RETENTION AND ACCESS AUTHORITY

67. The United States, the State, the District, and their representatives, including attorneys, contractors, and consultants, shall have the right of entry to the Facility covered by this Consent Decree, at all reasonable times, upon presentation of credentials to:

a. Monitor the progress of activities required under this Consent Decree;

b. Verify any data or information submitted to the United States or the State in accordance with the terms of this Consent Decree;

c. Obtain samples and, upon request, splits of any samples taken by Settling Defendant or its representative, contractors, or consultants;

d. Obtain documentary evidence, including photographs and similar data; and

e. Assess Settling Defendant's compliance with this Consent Decree.

68. Upon request, Settling Defendant shall provide EPA, Regional Board, DTSC or the District or their authorized

representatives splits of any samples taken by Settling Defendant. Upon request, EPA, Regional Board, DTSC or the District shall provide Settling Defendant splits of any samples taken by any of them.

69. Settling Defendant shall retain, and shall instruct its contractors and agents to preserve, all non-identical copies of all records and documents (including records or documents in electronic form) in its or its contractors' or agents' possession or control, or that come into its or its contractors' or agents' possession or control, and that relate in any manner to Settling Defendant's performance of its obligations under this Consent Decree, for a period of at least 10 years from when the record or document was created. This record retention requirement shall apply regardless of any corporate or institutional document-retention policy to the contrary. At any time during this record-retention period, the Plaintiffs may request copies of any documents or records required to be maintained under this Paragraph.

70. At the conclusion of the document-retention period provided in the preceding Paragraph for any particular record or document, Settling Defendant shall notify the Plaintiffs at least 90 days prior to the destruction of any records or documents subject to the requirements of the preceding Paragraph, and, upon request by any of the Plaintiffs, Settling Defendant shall deliver any such records or documents to requesting Plaintiff. Settling Defendant may assert that certain documents, records, or other information is privileged under the attorney-client privilege or any other privilege recognized by federal law. If

1 Settling Defendant asserts such a privilege, it shall provide the
2 following: (1) the title of the document, record, or information;
3 (2) the date of the document, record, or information; (3) the
4 name and title of the author of the document, record, or
5 information; (4) the name and title of each addressee and
6 recipient; (5) a description of the subject of the document,
7 record, or information; and (6) the privilege asserted by
8 Settling Defendant. However, no documents, reports, or other
9 information created or generated pursuant to the requirements of
10 this Consent Decree shall be withheld on the grounds that they
11 are privileged.

12 71. General Access Authority. This Consent Decree in no
13 way limits or affects any the United States', the State's, or the
14 District's right of entry and inspection pursuant to applicable
15 federal, State or local laws, regulations, or permits. Moreover,
16 pursuant to this Consent Decree, Settling Defendant shall provide
17 unrestricted and unconditional access to all portions of its
18 Facility at all reasonable times to EPA, Regional Board, DTSC or
19 District inspectors, representatives, agents, consultants, or
20 contractors to review compliance with CAA, EPCRA, CERCLA, and
21 RCRA requirements, their federal and State authorized or approved
22 implementing regulations, and relevant State and local
23 environmental laws. Such access includes, but is not limited to,
24 the following investigatory actions:

- 25 a. Inspect areas which are believed to be
- 26 contaminated with hazardous substances or hazardous wastes;
- 27 b. Take photographs and videotape;
- 28 c. Conduct site assessment and inspection activities

1 including, but not limited to, sampling various media;

2 d. Request information relating to operational and
3 disposal practices; and

4 e. Photocopy or otherwise reproduce manifests
5 documenting the release or threat of release of hazardous
6 substances from the Facility and all other documentation
7 concerning compliance with CAA, EPCRA, CERCLA, RCRA, their
8 federal and State authorized or approved implementing
9 regulations, and relevant State and local environmental laws.

10 XII. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

11 72. This Consent Decree resolves the civil claims of the
12 United States, the State, and the District for the violations
13 alleged in the Complaint filed in this action and occurring
14 through the date of lodging.

15 73. This Consent Decree shall not be construed to prevent
16 or limit the rights of the United States, the State, or the
17 District to obtain penalties or injunctive relief under CAA,
18 RCRA, EPCRA, CWA, or under other applicable federal, State, or
19 local laws, regulations, or permit conditions, except as
20 expressly specified herein.

21 74. Settling Defendant is responsible for achieving and
22 maintaining complete compliance with all applicable federal,
23 State, and local laws, regulations, and permits; and Settling
24 Defendant's compliance with this Consent Decree shall be no
25 defense to any action commenced pursuant to said laws,
26 regulations, or permits. This Consent Decree is not a permit, or
27 a modification of any permit, under any federal, State, or local
28 laws or regulations. The United States does not, by its consent

1 to the entry of this Consent Decree, warrant or aver in any
2 manner that Settling Defendant's compliance with any aspect of
3 this Consent Decree will result in compliance with provisions of
4 CAA, 42 U.S.C. § 7401 et seq.; RCRA, 42 U.S.C. § 6901 et seq.;
5 EPCRA, 42 U.S.C. § 11001 et seq.; and CWA, 33 U.S.C. § 1251 et
6 seq..

7 75. This Consent Decree does not limit or affect the rights
8 of Settling Defendant or of the United States, the State, or the
9 District against any third parties, not party to this Consent
10 Decree, nor does it limit the rights of third parties, not party
11 to this Consent Decree, against Settling Defendant, except as
12 otherwise provided by law.

13 76. This Consent Decree shall not be construed to create
14 rights in, or grant any cause of action to, any third party not
15 party to this Consent Decree.

16 77. The United States, the State, and the District reserve
17 all legal and equitable remedies available to enforce the
18 provisions of this Consent Decree, except as expressly stated
19 herein. The United States, the State, and the District further
20 reserve all legal and equitable remedies to address any imminent
21 and substantial endangerment to the public health, welfare, or
22 the environment arising at, or posed by, Settling Defendant's
23 Facility, whether related to the violations addressed in this
24 Consent Decree or otherwise.

25 78. In any subsequent administrative or judicial proceeding
26 initiated by the United States, the State, or the District for
27 injunctive relief, civil penalties, other appropriate relief
28 relating to the Facility, nothing in this Consent Decree shall

1 act as a bar, adjudication or resolution of any claims of the
2 Plaintiffs except for those civil claims of the Plaintiffs
3 alleged in the Complaint filed in this action through the date of
4 entry of this Consent Decree. In any subsequent proceeding
5 concerning claims that were not alleged in the Complaint,
6 Settling Defendant shall not assert any defense or claim based
7 upon the principles of waiver, res judicata, collateral estoppel,
8 issue preclusion, claim-splitting, or other defenses based upon
9 any contention that the claims raised by the United States, the
10 State, or the District in the subsequent proceeding were or
11 should have been brought in the instant action.

12 79. Nothing in this Consent Decree shall be construed as
13 settling, in whole or in part, any criminal liability of the
14 Settling Defendant or as limiting the rights of the United
15 States, the State, or the District to undertake any criminal
16 enforcement activity against any person or entity, including
17 Settling Defendant.

18 XIII. COSTS AND FEES

19 80. The Parties shall bear their own costs of this action,
20 including attorneys fees, except that the Plaintiffs shall be
21 entitled to collect the costs (including attorneys fees) incurred
22 in any action necessary to collect any portion of the Monetary
23 Payments or any Stipulated Penalties due but not paid by Settling
24 Defendant.

25 XIV. NOTICES, RECORDS, AND SUBMISSIONS

26 81. Unless otherwise specified herein, whenever reports,
27 plans, notifications, submissions, or communications are required
28 by this Consent Decree, they shall be made in writing to each of

the Parties and addressed as follows:

As to the United States or DOJ:

Chief, Environmental Enforcement Section
 Environmental Enforcement Section
 Environment and Natural Resources Division
 U.S. Department of Justice
 P.O. Box 7611
 Washington, D.C. 20044-7611
 Telephone: (202) 514-2779
 Re: DJ # 90-5-2-1-07856

As to EPA:

Office of Regional Counsel
 U.S. Environmental Protection Agency, Region 9
 C/O: IVAN LIEBEN
 Assistant Regional Counsel
 75 Hawthorne Street (ORC2)
 San Francisco, CA 94105
 Telephone: (415) 972-3914
 Fax: (415) 947-3570 fax
 lieben.ivan@epa.gov

As to the State:

DONALD A. ROBINSON
 Deputy Attorney General
 California Department of Justice
 300 South Spring Street, Suite 5000
 Los Angeles, California 90013
 Telephone: (213) 897-2611
 Fax: (213) 897-2802
 Donald.Robinson@doj.ca.gov

ROBERT SAMS
 Staff Counsel
 Los Angeles Regional Water Quality Control Board
 320 West 4th St., Suite 200
 Los Angeles, CA 90013
 Telephone: (213) 576-6797
 Fax: (213) 576-1323
 rsams@rb4.swrcb.ca.gov

DEBRA SCHWARTZ
 Staff Attorney
 c/o DENNIS MAHONEY
 California Department of Toxic Substances Control
 1011 N. Grandview Avenue
 Glendale, CA 91201
 Telephone: (916) 323-5542
 Fax: (916) 324-0339
 DSchwartz@dtsc.ca.gov

1 As to the South Coast Air Quality Management District

2 JOSEPH PANASITI
3 Staff Attorney
4 South Coast Air Quality Management District
5 21865 E. Copley Drive
6 Diamond Bar, CA 91765
7 Telephone: (909) 396-3462
8 jpanasiti@aqmd.gov

6 As to Settling Defendant:

7 ROBERT KEYSOR
8 Chairman
9 Keysor-Century Corporation
10 26000 Springbrook Ave.
11 Saugus, CA 91350

10 STEVEN TEKOSKY
11 Tatro Tekosky Sadwick Mendelson LLP
12 444 South Flower Street Forty-Second Floor
13 Los Angeles, California 90071
14 Telephone: 213-229-4600
15 Fax: 213-229-2770

13 82. Any Party may, by written notice to the other Parties,
14 change its designated notice recipient or notice address provided
15 above.

16 83. Notices, plans, reports or other items submitted
17 pursuant to this Consent Decree shall be deemed submitted upon
18 mailing, unless otherwise provided in this Consent Decree or by
19 mutual agreement of the Parties in writing.

20 84. Each notice, plan, report or other item submitted by
21 Settling Defendant under this Consent Decree shall be signed by a
22 responsible corporate official of Settling Defendant and shall
23 include the following certification:

24 I certify under penalty of law that I have
25 examined and am familiar with the information
26 submitted in this document and all
27 attachments and that this document and its
28 attachments were prepared either by me
personally or under my direction or
supervision in a manner designed to ensure
that qualified and knowledgeable personnel

SECRET

1 properly gathered and presented the
2 information contained therein. I further
3 certify, based on my personal knowledge or on
4 my inquiry of those individuals immediately
5 responsible for obtaining the information,
6 that the information is true, accurate and
7 complete. I am aware that there are
8 significant penalties for submitting false
9 information, including the possibility of
10 fines and imprisonment for knowing and
11 willful submission of a materially false
12 statement.

13 85. None of the reporting or document submittal
14 requirements of this Consent Decree relieves Settling Defendant
15 in any way of any reporting obligations required by CAA, RCRA,
16 EPCRA, CWA, their federal and State authorized or approved
17 implementing regulations, or by any other federal, State, or
18 local law, regulation, permit, or other requirement.

19 86. Any information provided pursuant to this Consent
20 Decree may be used by the Plaintiffs in any proceeding to enforce
21 the provisions of this Consent Decree and as otherwise permitted
22 by law.

23 XV. EFFECTIVE DATE

24 87. The Effective Date of this Consent Decree shall be the
25 date upon which this Consent Decree is entered by the Court.

26 XVI. RETENTION OF JURISDICTION

27 88. The Court shall retain jurisdiction over this case
28 until termination of this Consent Decree, for the purpose of
resolving disputes arising under this Decree or entering orders
modifying this Decree, pursuant to **Sections X** (Dispute
Resolution) **and XVII** (Modification), or effectuating or enforcing
compliance with the terms of this Consent Decree.

89. Notwithstanding termination of this Consent Decree, the

1 Court will continue to retain jurisdiction over the following
2 requirements of this Consent Decree: **Paragraph 28** (requirement
3 that Settling Defendant not resume manufacture of PVC at the
4 Facility), **Paragraph 32** (requirement that Settling Defendant take
5 no further action seeking acceptance of its application for
6 emission reduction credits), and **Paragraph 24** (requirement that
7 Settling Defendant create and implement an EMP). For these
8 provisions, the Court's continuing jurisdiction will include, but
9 not be limited to, the following actions: Stipulated Penalties
10 actions (Section VIII), contempt actions, actions to enforce the
11 provisions of the Consent Decree, Dispute Resolution actions
12 (Section X), and Force Majeure actions (Section IX).

13 **XVII. MODIFICATION**

14 90. The terms of this Consent Decree may be modified only
15 by a subsequent written agreement signed by all the Parties.
16 Where the modification constitutes a material change to any term
17 of this Consent Decree, it shall be effective only upon approval
18 by the Court. Prior to seeking the Court's approval of any
19 modification, the United States shall provide notice of the
20 modification to counsel for the Official Committee of Creditors
21 and to counsel for Congress Financial Corporation, in the case
22 entitled In re: Keysor-Century Corporation, Bk No. SV 02-12477AG
23 (Bankr. C.D. Cal.).

24 **XVIII. TERMINATION**

25 91. After Settling Defendant has maintained continuous
26 satisfactory compliance with the requirements of CAA, RCRA,
27 EPCRA, CWA, and their federal and State authorized or approved
28 implementing regulations, Settling Defendant's permits, and this

1 Consent Decree for a period of **5 years** after the Effective Date
2 of this Consent Decree, has complied with all other requirements
3 of this Consent Decree, including those relating to those actions
4 required by **Section V** (Actions To Be Performed) of this Consent
5 Decree and the EMP required by **Paragraphs 23 and 24**, and has paid
6 the civil penalty and any accrued Stipulated Penalties as
7 required by this Consent Decree, Settling Defendant may serve
8 upon the Plaintiffs Request for Termination, stating that
9 Settling Defendant has satisfied those requirements, together
10 with all necessary supporting documentation.

11 92. Following receipt by the Plaintiffs of Settling
12 Defendant's Request for Termination, the Parties shall confer
13 informally concerning the Request and any disagreement that the
14 Parties may have as to whether Settling Defendant has
15 satisfactorily complied with the requirements for termination of
16 this Consent Decree. If the United States, in consultation with
17 the other Plaintiffs, agrees that this Consent Decree may be
18 terminated, the Parties shall submit, for the Court's approval, a
19 joint stipulation terminating this Consent Decree.

20 93. If the United States, in consultation with the other
21 Plaintiffs, does not agree that this Consent Decree may be
22 terminated, Settling Defendant may invoke Dispute Resolution
23 under **Section X** of this Consent Decree. However, Settling
24 Defendant shall not seek judicial resolution of any dispute,
25 under **Paragraph 63 of Section X** (Dispute Resolution), until **90**
26 **days** after service of its Request for Termination.

27 **XIX. BANKRUPTCY COORDINATION**

28 94. Bankruptcy Court Approval. Settling Defendant's

1 agreement to the monetary payment provisions of this Consent
2 Decree is subject to the Bankruptcy Court's approval in Case No.
3 SV 02-12477-AG, pursuant to Rule 9019 of the Bankruptcy Code,
4 U.S.C. Bankruptcy R 9019. Settling Defendant agrees to present
5 this Consent Decree to the Bankruptcy Court forthwith, and to use
6 its best efforts to obtain prompt Bankruptcy Court approval of
7 this Consent Decree pursuant to Rule 9019 of the Bankruptcy Code,
8 U.S.C. Bankruptcy R 9019.

9 95. Settling Defendant will present this Consent Decree to
10 the Bankruptcy Court. During the pendency of the Rule 9019
11 motion, Plaintiffs and Settling Defendant will attempt to obtain
12 approval and signature from authorized representatives.

13 96. Cleanup Pass-Through. Other than those claims resolved
14 in this Consent Decree, all rights and claims of Plaintiffs for
15 civil, administrative, and stipulated post-petition penalties, as
16 well as actions to be performed by the Settling Defendant under
17 federal, State, or local environmental laws with respect to
18 Settling Defendant's Facility shall not be discharged, impaired,
19 or adversely affected by this Consent Decree or the Bankruptcy
20 Plan and case, shall survive the Bankruptcy Case as if the case
21 had not been commenced, and shall be determined in the manner and
22 by the administrative or judicial tribunals in which such rights
23 or claims would have been resolved or adjudicated if the
24 Bankruptcy Case had not been commenced.

25 97. Settling Defendant shall include in its Plan in the
26 Bankruptcy case the following language:

27 All rights and claims of Governments for Environmental
28 Cleanup or Response Cost Liabilities, including but not

1 limited to oversight costs, under local, State, and federal
2 environmental laws with respect to the Debtor's Saugus
3 Facility shall not be discharged, impaired, or adversely
4 affected by the Plan and Bankruptcy Case, shall survive the
5 Bankruptcy Case as if the case had not been commenced, and
6 shall be determined in the manner and by the administrative
7 or judicial tribunals in which such rights or claims would
8 have been resolved or adjudicated if the Bankruptcy Case had
9 not been commenced. Environmental Cleanup or Response Cost
10 Liabilities shall mean any liability for closure, post
11 closure, or corrective action under environmental laws, for
12 injunctive relief or reimbursement of costs for the cleanup
13 of substances, wastes, or material under environmental laws,
14 or for injunctive relief or damages under environmental law
15 relating to the release of substances, wastes, or material
16 into the air, land, soil, surface waste, groundwater, or
17 other medium other than the injunctive relief and penalties
18 resolved by the Consent Decree recently entered into by
19 various governmental agencies and departments and Keysor-
20 Century Corporation, United States, State of California, and
21 South Coast Air Quality Management District v. Keysor-
22 Century Corporation, Civil Action No. _____

23 98. Conversion to Liquidation. In the event that Settling
24 Defendant seeks to convert its Bankruptcy reorganization into a
25 liquidation (under either Chapter 7 or 11), and the Bankruptcy
26 Court approves of Settling Defendant's attempt to convert from
27 reorganization to liquidation, Settling Defendant shall continue
28 to consent to approval and entry of this Consent Decree by both

1 the District Court and the Bankruptcy Court, and continue to be
2 bound by this Consent Decree and its provisions, except for the
3 following:

4 A. In such a case, Plaintiffs will have the sole and
5 unilateral right to withdraw or withhold their consent to **Section**
6 **IV** of this Consent Decree (Monetary Payments). If Plaintiffs
7 withdraw consent to **Section IV** of this Consent Decree (Monetary
8 Payments), Plaintiff may seek penalties for any and all violations
9 as if **Section IV** of this Consent Decree (Monetary Payments) had
10 never been executed or entered.

11 B. Notwithstanding anything to the contrary in this
12 Consent Decree, the terms and requirements of Paragraphs 20(B), 21
13 through 26 and 33 through 34 of Section V, all Paragraphs of
14 Sections VI and VII, and Paragraphs 69 and 70 of this Consent
15 Decree shall not apply to Settling Defendant as of the date that
16 the liquidation plan is approved by the Bankruptcy Court.

17 XX. PUBLIC PARTICIPATION; APPROVAL BY DISTRICT COURT

18 99. This Consent Decree shall be lodged with the Court for
19 a period of not less than 30 days for public notice and comment
20 in accordance with 28 C.F.R. § 50.7. The United States reserves
21 the right to withdraw or withhold its consent if the comments
22 regarding this Consent Decree disclose facts or considerations
23 indicating that this Consent Decree is inappropriate, improper,
24 or inadequate. Settling Defendant consents to entry of this
25 Consent Decree without further notice.

26 100. After approval by the Bankruptcy Court pursuant to the
27 preceding section of this Consent Decree, and after completion of
28 the public comment period Plaintiff pursuant to the preceding

1 paragraph of this Consent Decree, and if the United States
2 continues to consent to this Consent Decree having considered any
3 public comments, Plaintiff will move the District Court for entry
4 of this Consent Decree as a final order.

5 XXI. SIGNATORIES/SERVICE

6 101. Each of the undersigned representatives of the Settling
7 Defendant certifies that he or she is authorized to enter into
8 the terms and conditions of this Consent Decree and to execute
9 and bind legally the party represented by him or her. The
10 undersigned Assistant Attorney General, Environment and Natural
11 Resources Division, U.S. Department of Justice, also certifies
12 that he is authorized to enter into the terms and conditions of
13 this Consent Decree and to execute and bind legally the United
14 States to this agreement. The undersigned Donald A. Robinson,
15 Deputy Attorney General for the California Attorney General's
16 Office and Joseph Panasiti, Staff Attorney for the South Coast
17 Air Quality Management District, also certify that they are
18 authorized to execute and bind legally the State of California
19 and the South Coast Air Quality Management District to this
20 agreement.

21 102. Settling Defendant agrees not to oppose entry of this
22 Consent Decree by the Court or to challenge any provision of this
23 Consent Decree, unless the Plaintiffs have notified Settling
24 Defendant in writing that they no longer support entry of this
25 Consent Decree.

26 103. Settling Defendant agrees to accept service of process
27 by mail with respect to all matters arising under or relating to
28 this Consent Decree and to waive the formal service requirements

1 set forth in Rule 4 of the Federal Rules of Civil Procedure and
2 any applicable Local Rules of this Court including, but not
3 limited to, service of a summons.

4 XXII. INTEGRATION

5 104. This Consent Decree constitute the final, complete, and
6 exclusive agreement and understanding among the Parties with
7 respect to the settlement embodied in this Consent Decree and
8 supersede all prior agreements and understandings, whether oral
9 or written. No other document, nor any representation,
10 inducement, agreement, understanding, or promise, constitutes any
11 part of this Consent Decree or the settlement it represents, nor
12 shall it be used in construing the terms of this Consent Decree.

13 XXIII. FINAL JUDGMENT

14 105. Upon approval and entry of this Consent Decree by the
15 Court, this Consent Decree shall constitute a final judgment
16 between and among the United States, the State of California, the
17 South Coast Air Quality Management District and Keysor-Century
18 Corporation. The Court finds that there is no just reason for
19 delay and therefore enters this judgment as a final judgment
20 under Fed. R. Civ. P. 54 and 58.

21
22 SO ORDERED THIS 18th DAY OF June, 2004.

23
24
25 Christina A. Snyder
26 United States District Court Judge
27
28

1 THE UNDERSIGNED PARTIES enter into this Consent Decree in the
2 matter of United States of America et al. v. Keysor-Century
3 Corporation.

4 FOR THE UNITED STATES OF AMERICA
5 UNITED STATES DEPARTMENT OF JUSTICE

6 DEBRA W. YANG
7 United States Attorney
8 Central District of California
9 LEON W. WEIDMAN
10 Chief, Civil Division

11 Date: 4/21/04

12 Suzette Clover (by SO)
13 SUZETTE CLOVER
14 Assistant United States Attorney
15 300 North Los Angeles Street
16 Los Angeles, California 90012
17 Telephone: (213) 894-2442

18 Date: 3.31.04

19 Tom Sansonetti
20 THOMAS L. SANSONETTI
21 Assistant Attorney General
22 Environment & Natural Resources Division
23 P.O. Box 7611, Ben Franklin Station
24 Washington, D.C. 20044

25 Date: 3/11/2004

26 Stev O'Rourke
27 STEVEN O'ROURKE
28 Trial Attorney
Environmental Enforcement Section
PO Box 7611, Ben Franklin Station
Washington, DC 20044


THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States of America et al. v. Keysor-Century Corporation.

FOR THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

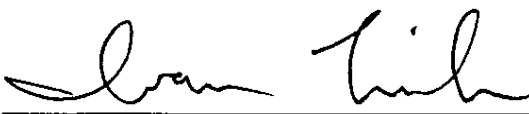
Date: _____

J.P. SUAREZ, Assistant Administrator
Office of Enforcement and Compliance
Assistance
United States Environmental Protection
Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

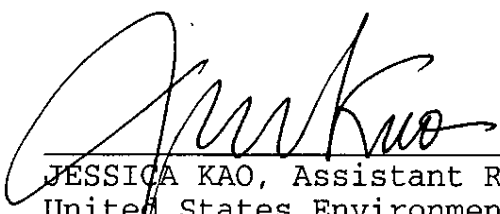
Date: 2/20/04


WAYNE NASTRI, Regional Administrator
United States Environmental Protection
Agency Region 9
75 Hawthorne Street (ORC2)
San Francisco, CA 94105

Date: _____


IVAN LIEBEN, Assistant Regional Counsel
United States Environmental Protection
Agency Region 9
75 Hawthorne Street (ORC2)
San Francisco, CA 94105

Date: _____



JESSICA KAO, Assistant Regional Counsel
United States Environmental Protection
Agency Region 9
75 Hawthorne Street (ORC2)
San Francisco, CA 94105

SCANNED

1 THE UNDERSIGNED PARTIES enter into this Consent Decree in the
2 matter of United States of America et al. v. Keysor-Century
3 Corporation.

4 FOR THE UNITED STATES
5 ENVIRONMENTAL PROTECTION AGENCY

6 Date: 3/5/04

7 
8 PHYLIS P. HARRIS, Acting Assistant
9 Administrator
10 Office of Enforcement and Compliance
11 Assurance
12 United States Environmental Protection
13 Agency
14 1200 Pennsylvania Avenue, NW
15 Washington, D.C. 20460
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1 THE UNDERSIGNED PARTIES enter into this Consent Decree in the
2 matter of United States of America et al. v. Keysor-Century
3 Corporation.

4 FOR THE CALIFORNIA DEPARTMENT OF
5 JUSTICE:

6 BILL LOCKYER
7 Attorney General of the State of
8 California
9 DONALD ROBINSON

10 Supervising Deputy Attorney General
11 California Department of Justice
12 300 South Spring Street, 11th Floor
13 Los Angeles, California 90013

14 By

15  (6/50)
16 DONALD ROBINSON

17 Attorneys for California Department
18 of Toxic Substances Control and the
19 California Regional Water Quality
20 Control Board, Los Angeles Region
21
22
23
24
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28

1 THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter
2 of United States of America et al. v. Keysor-Century Corporation.

3
4 FOR THE CALIFORNIA DEPARTMENT OF
5 TOXIC SUBSTANCE CONTROL:

6 DATE: 3/19/04

7 Stephen C. Sterling
8 STEPHEN C. STERLING
9 Branch Chief
10 Task Force Support and Special
11 Investigations Branch
12 State Department of Toxic
13 Substances Control
14 8800 Cal Center Drive
15 Sacramento, CA 95826
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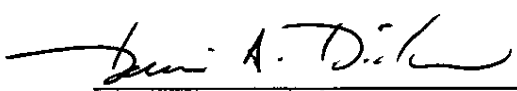
SCANNED

1 THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter
2 of United States of America et al. v. Keysor-Century Corporation.

3 FOR THE CALIFORNIA REGIONAL WATER
4 QUALITY CONTROL BOARD, LOS ANGELES
5 REGION

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DATE: March 25, 2004

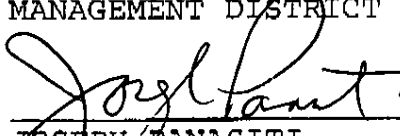

Dennis A. Dickerson
Executive Officer
California Regional Water Quality
Control Board, Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

SCANNED

1 THE UNDERSIGNED PARTIES enter into this Consent Decree in the
2 matter of United States of America et al. v. Keysor-Century
3 Corporation.

4
5 FOR THE SOUTH COAST AIR QUALITY
6 MANAGEMENT DISTRICT

7 Date: 3-30-04

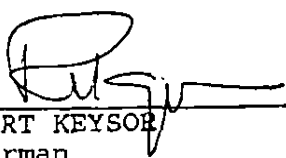
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13 21865 E. Copley Drive
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SCANNED

THE UNDERSIGNED PARTIES enter into this Consent Decree in the
matter of United States of America et al. v. Keysor-Century
Corporation.

FOR THE SETTLING DEFENDANT

Date: 3.12.04


ROBERT KEYSOR
Chairman
Keysor-Century Corporation
26000 Springbrook Ave.
Saugus, CA 91350

Date: _____

STEVEN TEKOSKY
TATRO TEKOSKY SADWICK MENDELSON LLP
444 South Flower Street
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Date: _____

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SCANNED